

WBWWA LEGISLATIVE UPDATE

February 19, 1998

The following information has been prepared by
Washington Beer & Wine Wholesalers Association Executive Director Phil Wayt
to serve as a confidential update on current legislative issues for Association members.

.08 BLOOD ALCOHOL CONTENT & OTHER DRINKING AND DRIVING LEGISLATION

Generally, all DUI legislation (approximately 13 bills) originated this session in the Senate and cleared that legislative body by the first cutoff which was February 17. All the bills now go to the House for consideration, where they must pass out of the appropriate House committee by Feb. 27. Most bills will be considered in a public hearing of the House Law & Justice Committee at 10:00AM on Tuesday, February 24.

Included in the legislative package are various bills increasing the penalties for drunk driving, mandatory ignition interlocks for DUI offenders, lowering the statutory level for legal alcohol intoxication to .08 from .10, and providing for impoundment and forfeiture of vehicles operated by persons driving a vehicle under the influence of intoxicating liquor.

WBWWA supported all of the measures which crack down on repeat offenders and violators with high blood alcohol levels. We publicly opposed legislation lowering the current blood alcohol standard to .08. Generally, the retail alcohol beverage industry is neutral on .08.

Most of the DUI bills now contain a provision calling for additional state funding for implementation of the bills when city or county enforcement funds are depleted. Additionally, the .08 bill was amended when it passed the Senate to say that cities and counties may not have to adopt the .08 standard when they feel existing local funds do not cover projected increased costs for DUI enforcement because of .08. This controversial provision will likely be vetoed by Washington Governor Gary Locke when the .08 bill reaches his desk.

As you have probably read in your local papers, there is a great deal of controversy surrounding the DUI legislation because of "unfunded mandates" forced upon cities and counties.

WINE DONATIONS

Originally, the Washington Wine Institute proposed legislation which would allow wineries and wine wholesalers to donate wine to non-profit and charitable corporations or associations. Based on direction from your Board of Directors, we were able to re-write the legislation into HB 3001 to make the provisions only applicable to "wineries".

Without controversy, the House adopted our amendment, passed HB 3001, and sent it to the Senate for consideration.

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	156

WBW-007704

SPIRITS COOLER LEGISLATION

SSB 6637 was introduced at the behest of Brown-Forman Beverage Corporation and added a new definition to law of "low alcohol beverage coolers". Basically, it would have treated low alcohol beverage coolers as wine for purposes of taxation. Sales of these spirits cocktails would be limited to state stores at a lower tax rate.

Originally, when Brown-Forman brought the concept to Washington, their proposal would have allowed the sale of these items in grocery stores throughout the state. That concept was never included in the legislation which was actually proposed.

Now the legislation has been amended by the Senate Commerce and Labor Committee to set-up a new tax category for these products. This new tax category provides these products a large tax break but they are not treated in any respect like wine. The products will still only be sold by state stores and agencies.

The original bill as introduced was opposed by WBWWA, the Washington Wine Institute, the California Wine Institute and the Washington State Liquor Control Board. As amended by the Senate Commerce and Labor Committee, we now have no grounds to oppose the legislation, and as is the case with the Washington Wine Institute and the California Wine Institute, WBWWA is now neutral on the bill. The Washington State Liquor Control Board is still opposed to the new tax category.

SSB 6637 passed out of the Senate Commerce and Labor Committee and is now pending before the Senate Ways and Means Committee. Although its future may be in doubt, generally bills in either the House or Senate Ways and Means Committee are exempt from cutoff dates.

TIED HOUSE LEGISLATION (BASS BEER BILL)

SSB 6648 was introduced by Senator Ray Schow, Chairman of the Senate Commerce and Labor Committee, for the Bass Company which was seeking broad exemptions in Washington's tied house law to allow them to continue to own and operate Holiday Inns in Washington, finance construction of new hotels in the state, and sell their own products and imports at these properties.

In the words of WBWWA attorney Bob Baronsky, the original proposed legislation would "deal a death blow to the tied house law as we know it". Your Board of Directors agreed and we opposed the legislation as introduced. The Washington State Liquor Control Board also opposed the original bill in the Senate committee process.

In testimony before the Senate Commerce and Labor Committee, it appeared obvious that there was substantial support for this legislation, especially from Chairman Schow who would, under the provisions of the proposal, have a new Holiday Inn built in his legislative district. Also, lobbyists for the Bass Company, as well as the lobbyist for the Seagram Beverage Company, pointed to shortcomings in Washington's "antiquated" tied house law. After discussions in committee with sponsors of the legislation, Senator Schow, and Senate staff, we agreed to an interim study of the

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current tied house laws. Therefore, we felt "one more exemption" would be bad policy if a general review of tied house statutes was to be completed. Even after agreeing to an interim study, Senator Schow said he still was going to push the proposed bill.

Thereafter, Dick and I had many meetings with proponents of the legislation, Senator Schow, the Senate committee staff, and representatives of the Liquor Board. Although we would rather not have had another exemption in the tied house law, because the bill was going to move forward in the process, we drafted a very narrow exemption to allow the Bass Company to proceed with their objectives while not jeopardizing the fundamental purposes of tied house.

The amendment says that a corporation which has a subsidiary that is a manufacturer or importer of alcohol products can also have a subsidiary which has a retail license as long as there is no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee.

The legislation passed out of the Senate Commerce and Labor Committee with our amendment and ultimately passed the full Senate last week.

ESSB 6648 will now be considered by the House Commerce and Labor Committee at 10:00 AM on Monday, February 23.

Although we did not want to see another exemption in tied house, the bill as it now reads has a very narrow exemption which we drafted, and therefore we will be neutral on further consideration of the proposal. It's doubtful that there will be any other opposition to the bill.

If the legislature pursues an interim study on tied house, we will be actively involved in the process and keep you advised.

PALLET THEFT LEGISLATION

WBWWA continues to support SSB 5769 which will make penalties more severe for those who illegally possess beer pallets. The legislation passed the Senate last week although there was a great deal of controversy during debate.

Ultimately, the bill was amended in the penalty section to make possession of ten or more pallets a gross misdemeanor. Originally, the legislation set-up the new crime as a class C felony.

Along with other proponents of the bill, we are trying to get a hearing scheduled on the legislation next week.

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OTHER LEGISLATION

Your WBWWA staff is also supporting bills in the House and Senate which would allocate more money within the Department of Ecology for actual litter pick-up. We are also supporting Senate Bill 5582, as introduced by the Washington Licensed Beverage Association, which would make patrons of on-premise retailers "personally responsible" for overconsumption of alcohol products. This bill passed the Senate last week and will be heard today in the House Law and Justice Committee. It has been vetoed twice by Washington's Governors and is opposed once again by the Liquor Control Board.

Senate Bill 6538, which would have set-up a new "bar" license, appears dead this session. The legislation, supported by the Restaurant Association and the Tavern Association, as well as the Liquor Control Board, would have set-up a new license for a fee of \$2,500. which would allow the sale of spirits, beer and wine with minimal food requirements.

All bills, except financial matters, must pass out of the opposite house committee process by February 27, and then pass on the floor of the opposite house by March 6. The final week of the legislative session is reserved for financial matters and bills in controversy. The 1998 legislative session is scheduled to end March 12.

Do not forget to register immediately for the March 5 WBWWA General Membership Meeting in Olympia. At that time, we will give you a final briefing on legislative matters as well as other issues of importance to the Association. Also, early in the morning meeting at the Tyee Hotel, Rich Raico from the M.I.W. Division at the Washington State Liquor Control Board will provide a brief update on the Internet Price Posting System at the Liquor Board.